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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,973	11/18/2005	Toshio Kitamura	14875- 142US1	5916
26161 7590 08/24/2007 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER OUSPENSKI, ILIA I	
			ART UNIT 1644	PAPER NUMBER
			MAIL DATE 08/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,973

Applicant(s)

KITAMURA ET AL.

Examiner

ILIA OUSPENSKI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's preliminary amendment, filed 04/28/2005, is acknowledged.

Claims 1 – 13 are pending.

Restriction Requirement

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

I. Claims 1 – 2, 4 – 6, and 8, drawn to a DNA molecule encoding a protein of SEQ ID NO:2, or comprising the coding region of SEQ ID NO:1; a vector and host cell comprising said DNA, and a method for producing said protein.

II. Claims 1 – 2, 4 – 6, and 8, drawn to a DNA molecule encoding a protein of SEQ ID NO:4, or comprising the coding region of SEQ ID NO:3; a vector and host cell comprising said DNA, and a method for producing said protein.

III. Claim 3, drawn to protein of SEQ ID NO:2, or encoded by DNA of SEQ ID NO:1.

IV. Claim 3, drawn to protein of SEQ ID NO:4, or encoded by DNA of SEQ ID NO:3.

V. Claims 7 and 11, drawn to an antibody to a protein of SEQ ID NO:2, or

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encoded by DNA of SEQ ID NO:1, and a method for producing a drug by mixing said antibody with a carrier.

VI. Claims 7 and 11, drawn to an antibody to a protein of SEQ ID NO:4, or encoded by DNA of SEQ ID NO:3, and a method for producing a drug by mixing said antibody with a carrier.

VII. Claims 9 – 10, drawn to a method of screening for a compound that binds to a protein of SEQ ID NO:2, or encoded by DNA of SEQ ID NO:1.

VIII. Claims 9 – 10, drawn to a method of screening for a compound that binds to a protein of SEQ ID NO:4, or encoded by DNA of SEQ ID NO:3.

IX. Claims 12 and 13, drawn to a method for producing a drug by mixing a compound obtained by the method of Group VII with a carrier.

X. Claims 12 and 13, drawn to a method for producing a drug by mixing a compound obtained by the method of Group VIII with a carrier.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

3. The inventions listed as Groups I – X do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

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The inventions of Groups I – X are deemed to have no special technical feature that defines the contribution over the prior art of GenBank entry of Accession number AK045869 (1999; see entire document).

GenBank entry of Accession number AK045869 discloses a nucleic acid sequence which is 96.2% identical to the instantly recited SEQ ID NO:1. As such, the sequence of AK045869 is capable of hybridizing with DNA of SEQ ID NO:1 under stringent conditions, and therefore anticipates at least the instant claim 1.

Since Applicant's inventions do not contribute a special technical feature when viewed over the prior art, they do not have a single general inventive concept and so lack unity of invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, reading "Ilia Ouspenski". The signature is written in a cursive, flowing style with a large initial "I".

ILIA OUSPENSKI, Ph.D.

Patent Examiner

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August 22, 2007